

THE BRICE LAW

Is Declared Constitutional by the Supreme Court.

DECISION SWEEPING

In Its Effects. The Only Part of the Anti-Dispensary Law Rejected by the Court is the Amendment in Reference to the School Fund.

The Brice law is constitutional. Such is the decision of the State supreme court. The dispensary kept open by injunction must be closed hereafter and prohibition will prevail in all of the northwest portion of the State, from Edgefield to the North Carolina line, except in Abbeville county, where no election has been held. The cases argued before the supreme court last Monday were decided Friday and the court decrees that the law is constitutional with one exception, and that may be eliminated without affecting the law itself. The exception, singular to relate, is the "rider" which was put on the Brice bill by the dispensary people, the clause which provides that counties voting out the dispensary shall have no participation in the surplus school fund accumulated from dispensary profits.

The State of South Carolina, in the supreme court, November term, 1905:

W. W. Murph, petitioner, against B. G. Landrum et al., respondents.

Louis B. Cox, petitioner, against James Hodges et al., respondents.

Joseph W. Coward, petitioner, against J. H. Blackwell et al., respondents.

John A. Weir, petitioner against F. P. Walker et al., respondents.

Robert E. Lyon, petitioner, against F. H. Burris et al., respondents.

Pickens County, petitioner, against A. W. Jones, as comptroller general, respondent.

Oconee County, petitioner, against A. W. Jones, as comptroller general, respondent.

Adam L. Aull, petitioner, against A. W. Jones, as comptroller general, respondent.

In each of these cases brought in the original jurisdiction of this court the question is raised as to the constitutionality of the act commonly known as the Brice act, approved Feb. 25, 1904 amending section 7 of the general dispensary law, approved March 6, 1896.

After careful consideration this court is of the opinion that said act is not unconstitutional on any of the grounds alleged except in so far as said Brice act declares that "any county voting out a dispensary shall not thereafter receive any part of the surplus that may remain of the dispensary school funds after the deficiencies in the various county school funds have been made up as provided by law." While the court considers this provision unconstitutional, the court is of the opinion that it is separable from the remainder of the act and that said act stands as constitutional with this provision treated as stricken out.

This conclusion renders it necessary to set aside the temporary injunction granted in the first five above entitled cases restraining the closing of the dispensaries therein mentioned and also that the temporary injunction granted in the remaining three above entitled cases restraining the comptroller general from drawing his official warrant for the several sums arising from the surplus of the dispensary fund as therein mentioned be dissolved and the comptroller general left free to disburse said fund as it would have been disbursed before the enactment of the said Brice act, and it is so adjudged.

The reason for these conclusions will be stated in an opinion hereafter to be filed.

Y. J. Pope, C. J., Eugene B. Gary, A. J., Ira B. Jones, A. J., C. A. Woods, A. J.

The action of the court means that the dispensaries must be and must remain closed in Greenville, Spartanburg, Anderson, Laurens, Union, Pickens, Newberry, Cherokee, Horry, Oconee, Darlington, Marion, York, Lancaster, Edgefield and Saluda counties. Greenwood and Marlboro have never had dispensaries. Williamsburg voted the dispensaries out, but the election was illegal and the result was so declared.

Thus 19 of 41 counties have already declared against the dispensary system and in 20 others there has been no election. Two counties have stood by the dispensary, Florence and Fairfield. In several others the people want elections but are being kept from an expression of their views.

These counties which now have dispensaries must contribute to their school fund to the counties in which there are no dispensaries unless an entirely new system be enacted.

Cheated the Gallows.

Booker Glass, a negro confined in Selma, Ala., for the murder of K. E. Allen, a young white man, and sentenced to hang January 19th, cheated the gallows in a daring dash for liberty Tuesday, in which he was shot to death by deputies. The negro fled off his manacles with a shoe iron and tried to wrest a revolver from a guard. Two men were required to overpower the negro and one deputy shot him at the risk of the other's life. The dead negro was named for Booker Washington. Tin dinner plates were found under his heart when the body was examined.

Many killed.

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White Men Commit a Crime That Calls for Lynching.

A dispatch from Sumter to the News and Courier says the facts in a disgraceful affair that occurred in the cotton mill village on Wednesday became known Thursday. Two white men who have been working in the mill at times got drunk and while in that condition went to the home of Mr. John Scott and made a determined effort to commit a criminal assault on a negro girl about 15 years old, who was employed by Mr. Scott as a nurse.

Mr. Scott and all the other adult members of his family were at work in the mill at the time, and they were under the impression that they could accomplish their heinous crime unmolested. They went into the house and looked the doors, but the girl could not be made to yield by threats and when they attempted to use force she screamed so loudly that the men became frightened and ran off. The girl went at once to the mill and reported the affair to Mr. Scott.

The girl's parents, who are respectable negroes, went before Magistrate Harby and had a warrant issued for the men, but they have left town and have not been apprehended yet. The crime was premeditated, for they tried to induce another young man to go with them an assist in the assault on the girl. This is a case that calls for severe punishment, and if the men are not captured soon a reward should be offered for their arrest.

Murders Hung.

Last Friday morning Jenkins Burrows and Arthur Williams, two negro murderers, were hung at Kingstree. The negroes were convicted of the horrible murder of Mr. Julian Wilson on the 13 of last October. It will be remembered that Mr. Wilson was in the store, where he was employed as manager alone, having rooms on the second floor. One of the negroes entered through the back door, crept up behind him and brained him with a heavy wooden prop used under the axle of wagons when greasing the wheels. The bloody wood was found in the yard the following day. Both the negroes were convicted on the strongest possible evidence, there having been no eyewitnesses, but maintained to the end that they did not commit the crime. Both said, however, just before going to the gallows, that they were ready to die.

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INMATES BURIED.

SEVENTEEN PERSONS GO DOWN IN A DEEP PIT

Twelve Residences Undermined by Clay Diggers in Making Brick.

On Tuesday night of last week at Haverstraw, N. Y., seventeen persons were missing and are believed to have gone to their death when thirteen houses on Rockland street toppled over into a pit sixty feet deep which had been out by clay diggers in connection with the brick-making industry there. Twelve of the persons missing were occupants of the fallen houses, five were among the rescuers who went to the aid of neighbors, after the first house fell and were carried down when the 12 other houses went crashing over the precipice.

The wreckage quickly caught fire and those who were in the mass were either crushed or burned to death. Tuesday night there was grave fear of another cave in along the same street and the occupants of seven or eight houses have moved away. Others are keeping on all night vigil, ready to alarm their neighbors in case of impending danger.

The missing Tuesday night, all of whom are believed to be dead, are as follows:

Occupants of houses, Harris Nelson, a merchant; Benjamin Nelson, his son; Mrs. Silverman and young son, Charles Cohen and wife, John E. Beauchamp, A. Provitch and daughter, Abraham Diaz; in the rescuing an all night vigil, ready to alarm are, Bartley McGovern, Mrs. M. Joseph Bailey, Rev. Mr. Alden, a Jewish rabbi.

The landslide which carried away the 13 houses was caused by the falling in of the bank under which the excavators of the brick manufacturers had been working for a number of years.

When the breakage occurred in the long line of land which formed the ragged edge of Rockland Street, one house toppled over into the pit with all who were living within its walls. The other occupants of the houses prepared to leave homes in the face of a blinding snowstorm. A number of people who lived nearby rushed to their aid and were assisting them in getting out when 12 more houses went down carrying with them not only the families who occupied them, but also several of those who had gone to their assistance.

Overturned stoves set fire to the buildings and firemen came from miles around but when the landslide occurred it broke the water main, thus cutting off the entire supply. Tuesday night relatives and friends of those buried beneath the ruins are still watching, as they have been all day, for the bodies of the dead to be brought out.

Outrage in Sumter.

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MANY OFFICES VACANT.

The General Assembly Will Fill Important Places.

More elections will be held this year by the general assembly than usual. There are vacancies occurring in six of the judicial circuits and the chief justice of the supreme court is to be elected.

Of course much interest will center in the election of the three dispensary directors and the State librarian is also to be elected. There are two vacancies on the board of penitentiary directors.

New members must be elected on the boards of trustees of South Carolina college, Clemson, Winthrop, the Citadel and the State colored college, at Orangeburg.

Chief Justice Y. J. Pope's term expires this year and a successor must be chosen to serve eight years. Justice Pope is filling an unexpired term. The judges of the circuit courts whose terms expire and their respective circuits are: C. G. Dantzler first; James Aldrich, second; R. O. Purdy, third; R. C. Watts, fourth; G. W. Gage, sixth and J. C. Klugh, eighth. These judges serve for four years each.

The term of State Commissioner W. O. Tatum expires, and also the term of chairman of the bond of dispensary directors, H. H. Evans. The terms of the two directors, John Bell Towill and L. W. Boykin, also expire. The term is two years.

Successors to J. A. Wingo and D. D. Puritoy of the board of penitentiary must be elected to serve two years each. The State librarian must be chosen for a term of two years, Miss LaBorde being the incumbent.

The college trustees whose terms expire this year follow, all being elected for six years each:

South Carolina College—W. T. O. Bates, J. Q. Davis, August Kohn, Clemson—W. D. Evans, A. T. Smythe, L. A. Sease.

Winthrop—E. S. Joynes, W. J. Roddey, A. M. Lee.

Citadel—J. J. Lucas, E. M. Blythe, State College—W. R. Lowman, D. J. Bradham.

There are plenty of candidates out for the various offices and there will be lots of log rolling before next Tuesday or Wednesday, when the lucky ones will get the plums.

Should be Punished.

A dispatch from Gaffney to The State says it seems that Cherokee must appear before the public in a bad light. The last horror here is the arrest of a white man attempting to criminally assault a negro woman, and failing in the attempt shooting her.

The charge is that Soruggs stole a Winchester rifle at the Cowpens battle-ground on Saturday and came back by Cowpens station, where he bought some cartridges. He walked on back towards town, coming by Thickety, where he attempted to buy some long cartridges. A negro woman, about 24 years old, Lela Glover, passed and Soruggs followed her for two miles.

Soruggs says that he made a proposal to her when she cursed him and drew a pistol from her stocking and pointed it at him, when he loaded his gun and shot her. She lay in the road for some time before she was four and carried to her home. The authorities were notified and from the description given Soruggs was arrested. He was carried before his victim, who identified him.

Bold Robbery.

A dispatch to The State from Greenville says Ed Fowler, a trusted driver or the Batesville Manufacturing company, was held up and robbed of \$26.20 by two unknown white men in Court street near the corner of Court and Falls street Friday afternoon about 2 o'clock. Fowler had just received a quantity of goods at Laurens depot, and was on his way with his four-horse team to the Southern freight depot, where he was to get other merchandise to complete his load, when he was approached by two unknown white men, about 25 years of age, who engaged him in conversation for a moment, after which they seized him and beneath the white canvas cover of his wagon took from his pockets the amount of money named, all he carried, which belonged to the Batesville mill.

Found Dead.

At Charleston L. P. Fouché, of Anderson, a pharmacy student of the South Carolina Medical college, was found wounded on Coming street at an early hour Friday morning. He had been shot in the stomach, and a friend, L. S. Maxwell, who was with him, was taken into custody by the police, while Fouché was sent to the Roper Hospital. An investigation seemed to establish the fact Friday that Fouché had shot himself probably changing his pistol from his pistol from his coat pocket to his hip pocket. The wound is not serious and the young man will doubtless recover.

Child Burned.

Melton Jamison, a negro living on Mr. Lem Berry's place near Swanees, lost a child Thursday from a severe burn. The child's clothing in some way caught fire and at least one half the skin on its entire body and extremities was burned, the cuticle peeling off. The child was 21 months old and did not seem to suffer any pain. It lived about 18 hours after being burned.

Alleged Assassin.

Charles Zimmerman, who shot and instantly killed Jim Stevens just across the Saluda line in Edgefield county Wednesday night, was lodged in jail there this evening for safe keeping by Messrs. W. D. and J. G. Padgett. Stevens, it is said, was sitting in his home and was shot by Zimmerman through an open window. Both parties are negroes.

HAVE MET AGAIN.

Both Branches of the Legislature Convened Tuesday.

WHAT HAS BEEN DONE

In the House and the Senate Since the Session Began in the Way of Legislation. Governor Heyward's Message Read in Both Houses.

The General Assembly of South Carolina met in annual session on Tuesday of last week. The whole day was taken up in organizing and hearing the Governor's message read.

The message is a long document, and like all State papers prepared by Gov. Heyward, is clear and to the point. The most important subject it treats is the dispensary. The part of the message bearing on this subject is printed in another column.

THE HOUSE.

In the House of Representatives Clerk Tom C. Hamer called the roll and announced that a quorum was present, and Speaker M. L. Smith called upon the Rev. Mr. Pratt to open the proceedings with prayer.

Speaker Smith made a brief opening address, and said he would offer no suggestions as to what ought to be done. The members are fresh from the people and know what they want, but he felt that if the same broad conservatism and liberality characterized the action of the members that nothing but success would crown the work of the General Assembly.

Announcements were then made that several newly elected members were present ready to be sworn in. The new members sworn in Tuesday are:

E. Marion Rucker, of Anderson. Wm. Anderson, of Cherokee. Arnold Vander Horst, of Charleston.

Mr. Dobbs's election has not yet been declared, and as soon as the election is declared he will take the oath.

Messrs. Whaley, Doar and D. O. Herbert were appointed to notify the Governor that the House had organized and was ready to receive any communications.

Messages were exchanged between the Senate and House that each was ready for work.

The annual message of Governor Heyward was read, having been presented by Private Secretary Norment. The members gave careful attention to the reading.

There were only two new measures introduced the first day. Both of the new bills came from Mr. Toole, of Aiken county.

The first was a bill to restrict the number of hours of labor in cotton mills to ten hours, instead of eleven, as is the law at present. Mr. Toole introduced a similar bill last year, but it was killed.

Mr. Toole's second bill was to reduce the passenger rate in this State to two and a half cents per mile. It is now three cents per mile on passenger trains, with no second class, which arrangement was adopted by way of compromise.

The House adjourned, after about an hour's session, to meet on Wednesday at eleven o'clock.

The house of representatives got down to business Wednesday and attacked the calendar with an evident desire to kill everything that came in sight. Six bills were tabled and withdrawn by their authors, there were recommitted, three had the enacting clause struck out, the parliamentary way of saying that they were "killed" and two were also killed by being indefinitely postponed.

Speaker Smith announced the appointment of Mr. E. M. Rucker, Jr., as a member of the committee on ways and means, and stated that Mr. Jno. G. Richards, Jr., would be the chairman of that committee. The following executive appointments were announced by the speaker:

Journal Clerk—Christie Benet. Bill Clerk—W. F. Norton. Keeper of the speaker's Room—James N. Pearman.

Mail Clerk—John Sharpe. Doorkeepers—R. B. Owings, Ben Hoover, McKinney.

Pages—James H. Tompkins, Earle Moffett, William Martin, John B. Patrick.

Laborers—William Long, Henry Gilliam, George Edwards, Caleb Bracy, Robert Chisolm.

After a short debate the house postponed indefinitely the bill presented by Mr. Ardrey to sell the State farms. The vote was 78 to 39. In the course of the debate Mr. Banks of Orangeburg called attention to the fact that 25,000 bushels of corn were raised on these farms last year.

Mr. J. B. Watson's bill suggesting an increase in the length of terms of circuit judges was killed. The bill merely provided that the people be given the opportunity to vote on this question.

Capt. Hamel's bill proposing that execution of criminals be conducted within the penitentiary walls was killed. Capt. Hamel explained that the bill was introduced in the interests of humanity.

Mr. LaFitte spoke on his bill "to make cursing and abusing any one of another an assault and providing punishment therefor." Mr. LaFitte explained the necessity of having such a law to prevent people from being insulted on the highway and then provided for punishing it. The members did not see it his way and killed the bill.

In the House on Thursday there were eight bills given favorable consideration, passed second reading and ordered to third reading. They were Mr. Callison's, relating to public guardians, amending section 2688 of the code; Mr. Sanders' bill providing for inspection of oils; Mr. D. O. Herbert's to authorize mayors and intendants to designate and detail policemen to perform duties of health officers; Mr. LaFitte's to give magistrates jurisdiction in case of theft of live stock if value of stolen property does not exceed \$20; Mr. Sanders' bill against "bucket shops;" Mr. M. W. Walker's to protect boarding housekeepers; Mr. Laban Mauldin's to require county auditors to administer oath to persons making return of property for taxation; Mr. Prince's bill to authorize S. M. Orr, H. H. Watkins and others to dam the Savannah river at Cherokee shoals.

Mr. Sanders' bill against "bucket shops" makes a misdemeanor "the keeping any room or place where contracts are made for the future delivery of any stocks, bonds, cotton, grain, meats, or any other animal, mineral, or vegetable product of any kind without the seller being the owner of the stock, bond, cotton, grain, or other article contracted to be sold, and without any intention on the part of either the seller to deliver or the buyer to receive the same."

THE SENATE.

The Senate was called to order by Lieutenant Governor Sloan, who made a short address after prayer by the Chaplain, Rev. W. I. Herbert.

Former Senator Hydrick, who has been made a Judge, is succeeded by Mr. H. B. Carlisle as Senator from Spartanburg. He was duly sworn in and was appointed to all those committees on which his predecessor served.

A committee, consisting of Senators Manning, Earle and Rayson, was appointed to inform the Governor that the Senate was ready for business and to receive any communication he might see fit to make.

It was expected that the bill giving the dispensary investigating committee further powers would be introduced Tuesday, but Chairman Hay said there had been some mistake in enrolling it, and that it would likely be introduced later.

The committee met Tuesday afternoon to perfect the bill. In general terms it will be similar to the original resolution, except that it will be in the form of an act, and the phraseology will be so constructed as to give the committee definite and positive authority to compel attendance of those summoned as witnesses, punish for contempt, etc., and in short to give the committee those powers, for the lack of which the investigation has been much hampered.

The following appointments were announced before adjournment: G. E. Moore, Hones Path, journal clerk; A. M. Deal, Columbia, bill clerk; N. O. Pyles, Columbia, postal clerk; Andrew Crawford, Jr., Columbia, clerk to the president; E. V. Cullum, Jr., Batesburg; and W. D. Johnson, of Aiken, pages, and the same laborers who served last year. There is a vacancy in the place of assistant clerk. Gen. Hemphill will announce that appointment Wednesday, and the successful man will likely be Mr. W. W. Mann, of St. George.

The Governor's Message was read and with that the business of the day was completed.